

NH Department of Health and Human Services (DHHS)  
 Division for Behavioral Health  
 Bureau of Mental Health Services

105 Pleasant St.  
 Concord, NH 03301

### Client Signature Requirements

<b>DATE:</b>	April 3, 2020
<b>TO:</b>	Community Mental Health Programs
<b>FROM:</b>	Julianne Carbin, Director, Bureau of Mental Health Services
<b>SUBJECT:</b>	COVID-19 Emergency Guidance #2 (Revised) – Waiver/Non-Enforcement of He-M 300 and He-M 400 Client Signature Requirements

The Bureau of Mental Health Services (BMHS) is working with our provider community to adhere to the guidance outlined by the Centers for Disease Control (CDC), the State's Division of Public Health Services, and our federal and State partners. Although organizations are responsible for daily operations and management of their COVID-19 responses, the following common questions have been raised by providers and therefore guidance is being provided.

In order to track and respond to your questions most efficiently, the BMHS is working with the NH Community Behavioral Health Association (NHCBHA) to receive and collate your questions relative to overarching policy, billing, practice, barriers, issues faced during the COVID-19 Emergency, as well as to receive your recommendations or ideas. For site/program specific questions, please reach out to us directly by sending correspondence to all of the following: Julianne Carbin, Kelley Capuchino, and Erica Ungarelli, with a CC to Julia McNamara.

Julianne.Carbin@dhhs.nh.gov; Kelley.Capuchino@dhhs.nh.gov;  
 ERICA.UNGARELLI@dhhs.nh.gov; Julia.McNamara@dhhs.nh.gov

The Bureau extends its sincere gratitude to those who are working to ensure the health and safety of the individuals and families we serve.

#### **Timeline**

The effective date of this guidance is the date of Emergency Order #8 expanding telehealth services, March 18, 2020. The end date is the expiration or termination of Emergency Order #8.

**Guidance:**

Any CMHC may request that the BMHS waive the client signature requirements of the rules listed below, and to instead allow verbal acknowledgement from the individual/family/guardian that is documented by the signature of the observing CMHC staff member along with a notation as to the time and date.

CMHCs are asked to email the Bureau with a subject of: *Waiver request to client signature requirements to:*

[Julianne.Carbin@dhhs.nh.gov](mailto:Julianne.Carbin@dhhs.nh.gov); [Julia.McNamara@dhhs.nh.gov](mailto:Julia.McNamara@dhhs.nh.gov)

The BMHS will deem those emails as waiver requests under He-M 401.15 and He-M 408.14 and grant them by email in reply.

The waiver applies to the following administrative rules:

He-M 401.10(m), requiring signature of individual/guardian on the individual service plan as indication of approval of the plan;

He-M 401.11(e), requiring signature of individual/guardian on the child and family service plan as indication of approval of the plan;

He-M 401.12(e), requiring the CMHP to, when possible, ask the individual to sign his or her quarterly review note as indication of agreement with the results of the review;

He-M 408.04(b)(13)(c), requiring that targeted case management assessment and care plan include documentation of an individual's refusal to receive specific services in the care plan;

He-M 408.08(l), requiring that clinical record include the signature of the individual or guardian; and

He-M 408.10(d)(9), requiring indication of individual/family/guardian participation through signatures when possible.

The BMHS notes that CMHCs seek similar relief from He-M 309.06(a)(9), requiring consent in writing when possible to treatment, and He-M 309.05(f)(3), requiring the written consent of the individual or guardian in order for a program to release information in the individual's record to any person or organization. Since He-M 309 does not include a waiver provision, the BMHS will exercise its discretion to not enforce these signature requirements when the CMHC obtains verbal acknowledgement of consent from the individual/family/guardian that is documented by the signature of the observing CMHC staff member along with a notation as to the time and date.

The BMHS notes that the better practice for documentation of an individual's verbal acknowledgment is for a second CHMC staff member to observe and sign the documentation. The concern is that if an individual subsequently claims he or she did not acknowledge verbally, there is one witness against another witness and the verbal acknowledgement will be harder to prove. We understand it may not be practical to always have two staff observe a verbal acknowledgment.